



Senate

General Assembly

File No. 423

February Session, 2014

Substitute Senate Bill No. 312

Senate, April 8, 2014

The Committee on Environment reported through SEN. MEYER of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING A LONG ISLAND SOUND RESOURCE AND USE INVENTORY AND A LONG ISLAND SOUND BLUE PLAN.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective October 1, 2014*) (a) The Secretary of the
2 Office of Policy and Management, in conjunction with the Long Island
3 Sound Resource and Use Inventory and Blue Plan Advisory
4 Committee, established pursuant to subsection (c) of this section, and
5 within available resources, shall: (1) Coordinate the completion of a
6 Long Island Sound Resource and Use Inventory that is comprised of
7 the best available information and data regarding the natural resources
8 within Long Island Sound and the uses of Long Island Sound,
9 including, but not limited to, all: (A) Plants; (B) animals; (C) habitats;
10 (D) ecologically significant areas in nearshore and offshore waters and
11 substrates of such waters; (E) uses of such waters and substrates,
12 including, but not limited to: (i) Recreational and commercial boating
13 and fishing, (ii) shellfish beds, (iii) aquaculture facilities, (iv) shipping
14 corridors, (v) energy facilities, and (vi) electric power line, gas pipeline

15 and telecommunications crossings; and (F) any updates and additions
16 to the comprehensive environmental assessment and plan completed,
17 in accordance with section 25-157a of the general statutes; and (2)
18 develop a Long Island Sound Blue Plan that may include maps,
19 illustrations and other media. Such Long Island Sound Blue Plan shall:
20 (A) Establish the state's goals, siting priorities and standards for
21 ensuring effective stewardship of the waters of Long Island Sound
22 held in trust for the benefit of the public; (B) promote science-based
23 management practices that take into account the existing natural,
24 social, cultural, historic and economic characteristics of planning areas
25 within Long Island Sound; (C) preserve and protect traditional
26 riparian and water-dependent uses and activities; (D) promote
27 maximum public accessibility to Long Island Sound's waters for
28 traditional public trust uses, such as recreational and commercial
29 boating and fishing, except when necessary to protect coastal
30 resources, preserve public health, safety and welfare, or when it is in
31 the interest of national security; (E) reflect the importance of the waters
32 of Long Island Sound to the citizens of this state who derive
33 livelihoods and recreational benefits from boating and fishing; (F)
34 analyze the implications of existing and potential uses and users of
35 Long Island Sound with a focus on avoiding potential use conflicts; (G)
36 be based upon the Long Island Sound Resources and Uses Inventory,
37 prepared pursuant to subdivision (1) of this subsection, with provision
38 for the ongoing acquisition and application of up-to-date resource and
39 use data, including seafloor mapping; (H) reflect the value of
40 biodiversity and ecosystem health in regard to the interdependence of
41 ecosystems; (I) identify and protect special, sensitive or unique
42 estuarine and marine life and habitats, including, but not limited to,
43 scenic and visual resources; (J) adapt to evolving knowledge and
44 understanding of the marine environment, including adaptation to
45 climate change and rise in sea level; (K) foster sustainable uses that
46 capitalize on economic opportunity without significant detriment to
47 the ecology or natural beauty of Long Island Sound; (L) support the
48 infrastructure necessary to sustain the economy and quality of life for
49 the citizens of this state; (M) be coordinated with local, regional and

50 federal planning entities and agencies, including, but not limited to,
51 the Long Island Sound Study and National Ocean Policy's Northeast
52 Regional Planning Body; (N) be coordinated, developed and
53 implemented, to the maximum extent feasible, with the state of New
54 York; (O) be developed through a transparent and inclusive process
55 that seeks widespread participation of the public and stakeholders and
56 encourages public participation in decision making; (P) identify
57 appropriate locations and performance standards for activities, uses
58 and facilities regulated under existing state permit programs,
59 including, but not limited to, measures to guide siting of uses in a
60 manner compatible with said Long Island Sound Blue Plan; and (Q) be
61 consistent with the state plan of conservation and development and
62 the goals and policies described in section 22a-92 of the general
63 statutes. The secretary may accept, on behalf of the state, any gifts,
64 grants, donations or bequests for the purposes of assisting the
65 completion of the Long Island Sound Resources and Uses Inventory
66 and the development of a Long Island Sound Blue Plan.

67 (b) For the purposes of this section, the submerged lands and waters
68 subject to the secretary's planning, management and coordination
69 authority under the Long Island Sound Blue Plan shall include Long
70 Island Sound and its bays and inlets from the mean high water line, as
71 defined by the most recent data of the National Oceanic and
72 Atmospheric Administration, to the state's waterward boundaries with
73 the states of New York and Rhode Island. Any siting policies,
74 identification of locations, or performance standards for activities, uses
75 and facilities under the Long Island Sound Blue Plan shall apply in a
76 spatial planning area located seaward of the bathymetric contour of
77 minus ten feet North American Vertical Datum to the state's
78 waterward boundaries with the states of New York and Rhode Island.
79 Such spatial planning area shall be designated on a map to be
80 prepared by the advisory committee established pursuant to
81 subsection (c) of this section.

82 (c) There is established a Long Island Sound Resource and Use
83 Inventory and Blue Plan Advisory Committee that shall assist the

84 Secretary of the Office of Policy and Management with the drafting of
85 the Long Island Sound Resource and Use Inventory and the Long
86 Island Sound Blue Plan, described in subsection (a) of this section. Said
87 advisory committee shall consist of the following members: (1) The
88 Commissioner of Energy and Environmental Protection, or the
89 commissioner's designee, (2) a member from a marine-related program
90 at The University of Connecticut, (3) a representative of the Office of
91 Maritime Affairs within the Department of Transportation, (4) a
92 representative of the Bureau of Aquaculture within the Department of
93 Agriculture, (5) the Commissioner of Economic and Community
94 Development, or the commissioner's designee, (6) a representative of
95 the Connecticut Siting Council, (7) a representative of the marine
96 trades industry, (8) a representative of a conservation organization that
97 specializes in coastal issues, (9) a representative of the gas and electric
98 distribution industries, (10) a representative of the commercial
99 shellfish and finfish industries, (11) a representative of the recreational
100 fishing and hunting community, and (12) a representative of a
101 nonprofit organization with expertise in marine assessments and
102 planning. Each appointed member shall be appointed by the Governor
103 and shall serve at the pleasure of the Governor. The secretary shall
104 convene the first meeting of such advisory committee not later than
105 sixty days after the effective date of this section and shall serve as the
106 chairperson of such advisory committee. The secretary may request
107 members of the advisory committee to assist with administrative
108 functions of the advisory committee, including, but not limited to,
109 convening and noticing meetings and drafting assessments and
110 reports. The advisory committee shall be located in the Office of Policy
111 and Management for administrative purposes only.

112 (d) The Long Island Sound Resource and Use Inventory and Blue
113 Plan Advisory Committee shall hold not less than three public
114 hearings in different coastal municipalities of the state to receive
115 comments and submissions from the public and interested persons
116 and may provide for other public outreach and input measures, as
117 appropriate, to assure sufficient stakeholder engagement and
118 representation. The advisory committee shall assist the secretary in

119 completing a draft of the Long Island Sound Resource and Use
120 Inventory and the Long Island Sound Blue Plan not later than July 1,
121 2017.

122 (e) During the drafting of the Long Island Sound Resource and Use
123 Inventory and Long Island Sound Blue Plan, and prior to making such
124 draft available for public comment, in accordance with subsection (f) of
125 this section, the advisory committee shall consult with representatives
126 of the telecommunications industry, coastal municipalities, waterfront
127 businesses, a tribal nation, the shell fish industry, the commercial fin
128 fishing community, the tourism or recreation industry and an
129 organization involved with coastal or marine hunting.

130 (f) Upon completion of the draft Long Island Sound Resource and
131 Use Inventory and the Long Island Sound Blue Plan, the secretary shall
132 make such draft available for public review and comment and shall
133 publish notice thereof in not less than five newspapers of general
134 circulation, the Environmental Monitor and the Connecticut Law
135 Journal. The secretary shall cause such draft and notice of public
136 comment period to be posted on the Internet web site of the
137 Department of Energy and Environmental Protection and the Office of
138 Policy and Management. Such notice of public comment period shall
139 provide for a public comment period of not less than ninety days. Not
140 later than ninety days after the end of such public comment period, the
141 secretary shall adopt a final draft of the Long Island Sound Resource
142 and Use Inventory and the Long Island Sound Blue Plan.

143 (g) Upon completion of the final draft of the Long Island Sound
144 Resource and Use Inventory and the Long Island Sound Blue Plan,
145 such inventory and plan shall be submitted to the joint standing
146 committee of the General Assembly having cognizance of matters
147 relating to the environment. Said committee, not later than forty-five
148 days after the start of the next occurring legislative session following
149 receipt of such inventory and plan, shall submit such inventory and
150 plan, in conjunction with the committee's recommendation for
151 approval or disapproval of such inventory and plan, to the General

152 Assembly. Such inventory and plan shall become effective when
153 approved by a majority vote of each chamber of the General Assembly.
154 In the event that the General Assembly disapproves the plan, in whole
155 or in part, such inventory and plan shall be deemed to be rejected and
156 shall be returned to the advisory committee for revision.

157 (h) Upon approval of such inventory and plan: (1) Such plan shall
158 be considered as a factor in the review of applications pursuant to
159 sections 25-157b, 22a-361 and 22a-359 of the general statutes and may
160 be utilized for guidance in pre-application discussions between the
161 Commissioner of Energy and Environmental Protection and
162 applicants, (2) the Commissioner of Energy and Environmental
163 Protection shall seek necessary federal approval to incorporate the
164 Long Island Sound Blue Plan as an enforceable policy in the state's
165 coastal management program under the federal Coastal Zone
166 Management Act, (3) the secretary and the Commissioner of Energy
167 and Environmental Protection shall, within available resources,
168 develop and implement a public outreach and information program to
169 provide information to the public regarding the Long Island Sound
170 Blue Plan, (4) the secretary and the Commissioner of Energy and
171 Environmental Protection shall provide for the review and update of
172 such inventory and plan at least once every five years and any revision
173 to such inventory and plan shall become effective upon approval by
174 the General Assembly, in accordance with subsection (g) of this
175 section, (5) the advisory committee, not later than six months after
176 such approval, shall advise the secretary on the operation,
177 implementation and updating of the inventory and plan, as applicable,
178 and shall meet on a quarterly basis to review implementation of such
179 plan, identify emerging issues and recommend any necessary or
180 desirable alterations or improvements to such plan, and (6) the
181 advisory committee shall, within available resources, hold not less
182 than one public hearing each year to receive comments and
183 submissions from the public on such inventory and plan.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2014</i>	New section
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ENV *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 15 \$	FY 16 \$
Policy & Mgmt., Off.	GF - Cost	\$44,689	\$59,585
State Comptroller - Fringe Benefits ¹	GF - Cost	\$16,383	\$21,844

Municipal Impact: None

Explanation

The bill requires the Office of Policy and Management (OPM) to coordinate the completion of the Long Island Sound Resource and Use Inventory.

As OPM does not have technical knowledge in this area, it is anticipated the agency would require a durational Planning Analyst to complete the report. A Planning Analyst's annual salary plus fringe benefits is \$81,429. It is anticipated that full salary and fringe benefits costs would not be realized until FY 16, due to the timing of the hiring process.

The Out Years

As this project is temporary, it is anticipated that a durational employee would be hired; thus the ongoing annualized fiscal impact would continue until the project was completed.

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 36.66% of payroll in FY 15 and FY 16.

OLR Bill Analysis**sSB 312*****AN ACT CONCERNING A LONG ISLAND SOUND RESOURCE AND USE INVENTORY AND A LONG ISLAND SOUND BLUE PLAN.*****SUMMARY:**

This bill requires the Office of Policy and Management (OPM) secretary, within available resources, to:

1. coordinate completing an inventory of Long Island Sound's uses and natural resources (the "Long Island Sound Resource and Use Inventory") and
2. develop a plan to preserve and protect the Sound that may include, maps, illustrations, and other media (the "Long Island Sound Blue Plan").

The secretary must do these things in conjunction with a Long Island Sound Resource and Use Inventory and Blue Plan Advisory Committee the bill creates.

The bill establishes a process for developing the inventory and plan, including provisions for public review and comment. The draft inventory and plan must be completed by July 1, 2017 and the public must have at least 90 days to review and comment on it. The secretary must adopt a final draft within 90 days after the public comment period ends. Once final, the bill requires the inventory and plan to be (1) reviewed by the Environment Committee and (2) submitted to the General Assembly for a vote. The bill requires the inventory and plan to be updated every five years.

Under the bill, the plan's policies, locations, or standards must apply in a spatial planning area as depicted on a map the advisory committee prepares. The plan must be a factor for the Department of

Energy and Environmental Protection (DEEP) or other state agencies to consider when reviewing applications to conduct certain coastal activities.

Lastly, the bill allows the secretary to accept, on the state's behalf, gifts, grants, donations, or bequests to help complete the inventory and develop the plan.

EFFECTIVE DATE: October 1, 2014

USE OF THE INVENTORY AND PLAN

Under the bill, once the inventory and plan are approved as described below, the plan must be considered when reviewing applications for:

1. electric power line, gas pipeline, or telecommunications crossings of Long Island Sound or
2. dredging, erecting structures, placing fill, obstructions, or encroachments, or conducting work related to these activities, in tidal, coastal, or navigable waters waterward of the coastal jurisdiction line.

It allows the plan to be used for guidance in pre-application discussions between applicants and the DEEP commissioner.

The bill also requires the commissioner to seek federal approval needed to incorporate the plan as an enforceable policy in the state's coastal management program under the federal Coastal Zone Management Act.

LONG ISLAND SOUND RESOURCE AND USE INVENTORY

Under the bill, the inventory must be comprised of the best available information and data on Long Island Sound's natural resources and uses, including all of its:

1. plants, animals, and habitats;

2. ecologically significant areas in nearshore and offshore waters and their substrates (surfaces where organisms grow);
3. uses of the waters and substrates such as (a) boating and fishing, (b) shellfish beds, (c) aquaculture and energy facilities, (d) shipping corridors, and (e) electric power line, gas pipeline, and telecommunications crossings; and
4. updates and additions to the comprehensive environmental assessment and plan on Long Island Sound crossings (such as pipelines).

LONG ISLAND SOUND BLUE PLAN

Purposes

The bill requires the plan to:

1. establish the state's goals, siting priorities, and standards for effective stewardship of the Sound's waters held in trust for public benefit;
2. promote science-based management practices that consider existing natural, social, cultural, historic, and economic characteristics of planning areas within the sound;
3. preserve and protect traditional riparian and water-dependent uses and activities;
4. promote maximum public access to the Sound's waters for traditional public trust uses, such as boating and fishing, unless it is a national security interest or it is necessary to (a) protect coastal resources or (b) preserve public health, safety, and welfare;
5. reflect the Sound's waters' importance to state residents who make a living from or enjoy recreational boating or fishing;
6. analyze the implications of existing and potential uses and users of the Sound, focusing on avoiding conflicts;

7. reflect the value of biodiversity and ecosystem health, in regard to ecosystem interdependence;
8. identify and protect special, sensitive, or unique estuarine and marine life and habitats such as scenic and visual resources;
9. adapt to evolving knowledge and understanding of the marine environment, including climate change and sea level rise adaptation;
10. foster sustainable uses that capitalize on economic opportunity without significant detriment to the Sound's ecology or natural beauty;
11. support infrastructure that is needed to sustain the state's economy and quality of life; and
12. identify appropriate locations and performance standards for activities, uses, and facilities regulated under state permit programs, such as measures to guide siting uses in a way that is consistent with the plan.

Under the bill, the plan must be based on the inventory described above and provide for ongoing acquisition and application of up-to-date resource and use data, including seafloor mapping. It must be consistent with the State's Plan of Conservation and Development and the goals and policies contained in the state's Coastal Management Act.

The bill specifies that the plan be developed by a transparent and inclusive process that seeks widespread public and stakeholder participation and encourages public input in decision making. It must be coordinated, developed, and implemented with New York, to the greatest extent possible. The plan must also be coordinated with local, regional, and federal planning entities and agencies such as the (1) Long Island Sound Study and (2) National Ocean Policy's Northeast Regional Planning Body (see BACKGROUND).

Areas Subject to the Plan

Waters and Submerged Lands. The waters and submerged lands subject to the secretary's planning, management, and coordination authority under the plan include:

1. Long Island Sound and
2. its bays and inlets from the mean high water line to the state's waterward boundaries with New York and Rhode Island.

The bill specifies that the high water line is defined by the most recent data of the National Oceanic and Atmospheric Administration.

Spatial Planning Area. The bill requires the advisory committee (see below) to prepare a map showing a spatial planning area where the plan's siting policies, location identifications, or performance standards for activities or facilities must apply. The bill specifies that the area is located seaward of the bathymetric contour of minus ten feet North American Vertical Datum (10 feet under sea level) to the state's waterward boundaries with New York and Rhode Island.

PUBLIC INVOLVEMENT AND COMMENTS***Developing the Draft Inventory and Plan***

To help the secretary develop the inventory and plan, the bill requires the committee to hold at least three public hearings in different coastal municipalities for receiving public comments and submissions. It allows the committee to provide other public outreach and input measures to ensure stakeholder engagement and representation.

While drafting the inventory and plan, but before they are available for public comment, the committee must consult with representatives from:

1. the telecommunications industry,
2. coastal municipalities,

3. waterfront businesses,
4. a tribal nation,
5. the shellfish and commercial fin fishing industries,
6. the tourism or recreation industry, and
7. an organization involved with coastal or marine hunting.

After Draft Completion

Once the draft inventory and plan are completed, the bill requires the secretary to post them on DEEP's and OPM's websites for the public for review and comment on for at least 90 days. He must also publish notice of them in at least five general circulation newspapers, the *Environmental Monitor*, the *Connecticut Law Journal*, and on DEEP's and OPM's websites.

The secretary must adopt a final draft within 90 days after the public comment period ends.

GENERAL ASSEMBLY REVIEW

Under the bill, once a final draft of the inventory and plan are completed, they must be submitted to the Environment Committee for review. The committee must then submit the inventory and plan, with its recommendation for approval or disapproval, to the General Assembly within 45 days after the start of the legislative session following receipt of the inventory and plan.

The inventory and plan take effect when approved by a majority vote of each chamber of the General Assembly. If the General Assembly disapproves the inventory and plan, in whole or part, they are deemed rejected and must return to the advisory committee for revisions.

The bill requires revisions to the inventory and plan to be submitted to the Environment Committee and approved by the General Assembly, following the same procedure as described above. The

secretary and DEEP commissioner are responsible for the review and update to the inventory and plan, which must occur at least once every five years.

PUBLIC OUTREACH PROGRAM

The bill requires the secretary and DEEP commissioner to develop and implement a public outreach and information program to inform the public about the plan. It also requires the advisory committee to hold at least one public hearing each year to receive public comments and submissions on the inventory and plan. The program and hearing must be accomplished within available resources.

ADVISORY COMMITTEE

Membership

Under the bill, the Long Island Sound Resource and Use Inventory and Blue Plan Advisory Committee includes the DEEP and economic development commissioners, or their designees, and the following 10 members appointed by the governor:

1. one representative each from the transportation department's marine affairs office and the agriculture department's aquaculture bureau;
2. a Connecticut Siting Council representative;
3. someone from a marine-related program at UConn;
4. a representative from the recreational fishing and hunting community;
5. a representative of a conservation organization that specializes in coastal issues;
6. a representative from a nonprofit with expertise in marine assessments and planning; and
7. one representative each from the marine trades, gas and electric distribution, and commercial shellfish and finfish industries.

Each appointed member serves at the governor's pleasure. Under the bill, the OPM secretary serves as the committee's chairperson, but it does not include him among the list of committee members. The bill requires him to convene the first meeting by November 30, 2014 and it allows him to ask members to help with administrative functions such as convening and noticing meetings and drafting assessments and reports.

The bill places the committee in OPM for administrative purposes only. Thus, it makes OPM responsible for, among other things, providing administrative and clerical functions for the committee to the extent the secretary considers it necessary.

Committee Responsibilities

In addition to helping the secretary develop the draft inventory and plan, the bill requires the committee to advise the secretary on operating, implementing, and updating the inventory and plan within six months after the General Assembly's approval. It must also meet quarterly to review the plan's implementation, identify emerging issues, and recommend any needed or desirable changes to the plan.

BACKGROUND

Long Island Sound Study

In 1985, in an effort to better protect Long Island Sound, the federal Environmental Protection Agency, Connecticut, and New York formed the Long Island Sound Study, a bi-state partnership consisting of federal and state agencies, user groups, organizations, and individuals seeking to restore and protect the Sound.

National Ocean Policy's Northeast Regional Planning Body

Formed by a presidential Executive Order in 2010, the National Ocean Policy was established to help manage the country's oceans and coasts. The policy encourages a science-based spatial planning process to analyze current and future uses of ocean, coastal, and Great Lakes areas. The approach is executed through regional planning bodies. Members of the Northeast Regional Planning Body include federal,

tribal, state, and New England Fishery Management Council representatives.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 27 Nay 1 (03/21/2014)